



General Assembly

**Amendment**

January Session, 2005

LCO No. 6465

**\*SB0069106465SD0\***

Offered by:

SEN. MCDONALD, 27<sup>th</sup> Dist.

SEN. LOONEY, 11<sup>th</sup> Dist.

To: Subst. Senate Bill No. 691

File No. 602

Cal. No. 438

**"AN ACT CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES  
FOR CERTAIN CODE VIOLATIONS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 8-12 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2005*):

5 (a) If any building or structure has been erected, constructed,  
6 altered, converted or maintained, or any building, structure or land  
7 has been used, in violation of any provision of this chapter or of any  
8 bylaw, ordinance, rule or regulation made under authority conferred  
9 hereby, any official having jurisdiction, in addition to other remedies,  
10 may institute an action or proceeding to prevent such unlawful  
11 erection, construction, alteration, conversion, maintenance or use or to  
12 restrain, correct or abate such violation or to prevent the occupancy of  
13 such building, structure or land or to prevent any illegal act, conduct,  
14 business or use in or about such premises. Such regulations shall be

15 enforced by the officer or official board or authority designated  
16 therein, who shall be authorized to cause any building, structure, place  
17 or premises to be inspected and examined and to order in writing the  
18 remedying of any condition found to exist therein or thereon in  
19 violation of any provision of the regulations made under authority of  
20 the provisions of this chapter or, when the violation involves grading  
21 of land, the removal of earth or soil erosion and sediment control, to  
22 issue, in writing, a cease and desist order to be effective immediately.  
23 The owner or agent of any building or premises where a violation of  
24 any provision of such regulations has been committed or exists, or the  
25 lessee or tenant of an entire building or entire premises where such  
26 violation has been committed or exists, or the owner, agent, lessee or  
27 tenant of any part of the building or premises in which such violation  
28 has been committed or exists, or the agent, architect, builder,  
29 contractor or any other person who commits, takes part or assists in  
30 any such violation or who maintains any building or premises in  
31 which any such violation exists, shall be fined not less than [ten] one  
32 hundred nor more than [one] five hundred dollars for each day that  
33 such violation continues; but, if the offense is wilful, the person  
34 convicted thereof shall be fined not less than [one] five hundred  
35 dollars nor more than [two hundred and fifty] one thousand dollars  
36 for each day that such violation continues, or imprisoned not more  
37 than ten days for each day such violation continues or both; and the  
38 Superior Court shall have jurisdiction of all such offenses, subject to  
39 appeal as in other cases. Any person who, having been served with an  
40 order to discontinue any such violation, fails to comply with such  
41 order within ten days after such service, or having been served with a  
42 cease and desist order with respect to a violation involving grading of  
43 land, removal of earth or soil erosion and sediment control, fails to  
44 comply with such order immediately, or continues to violate any  
45 provision of the regulations made under authority of the provisions of  
46 this chapter specified in such order shall be subject to a civil penalty  
47 not to exceed two thousand five hundred dollars, payable to the  
48 treasurer of the municipality. In any criminal prosecution under this  
49 section, the defendant may plead in abatement that such criminal

50 prosecution is based on a zoning ordinance or regulation which is the  
51 subject of a civil action wherein one of the issues is the interpretation  
52 of such ordinance or regulations, and that the issues in the civil action  
53 are such that the prosecution would fail if the civil action results in an  
54 interpretation different from that claimed by the state in the criminal  
55 prosecution. If the court renders judgment for such municipality and  
56 finds that the violation was wilful, the court shall allow such  
57 municipality its costs, together with reasonable attorney's fees to be  
58 taxed by the court. The court before which such prosecution is pending  
59 may order such prosecution abated if it finds that the allegations of the  
60 plea are true.

61 (b) Any fine imposed by a municipality, pursuant to the provisions  
62 of subsection (a) of this section, and remaining unpaid for a period of  
63 sixty days after its due date shall constitute a lien upon the real estate  
64 against which the fine was imposed from the date of such fine,  
65 provided a notice of violation is recorded in the land records and  
66 indexed in the name of the property owner no later than thirty days  
67 after the fine was imposed. Each such lien may be continued, recorded  
68 and released in the manner provided by the general statutes for  
69 continuing, recording and releasing property tax liens. Each such lien  
70 shall be effective from the time of the recording of the lien on the land  
71 records, and shall take precedence over all other liens and  
72 encumbrances, except taxes, and may be enforced in the same manner  
73 as property tax liens. Each title insurance company issuing a policy for  
74 property in this state shall exclude coverage for loss or damage  
75 because of a valid existing lien or a future unrecorded lien imposed  
76 under this subsection.

77 (c) Any municipality imposing a fine under subsection (a) of this  
78 section shall maintain a current record of all properties subject to  
79 unpaid fines under said subsection (a) in the office of the municipal  
80 clerk. Such record shall be available for immediate review by the  
81 general public.

82 Sec. 2. Section 8-12a of the general statutes is repealed and the

83 following is substituted in lieu thereof (*Effective October 1, 2005*):

84 (a) Any municipality may, by ordinance adopted by its legislative  
85 body, establish penalties for violations of zoning regulations adopted  
86 under section 8-2 or by special act. The ordinance shall establish the  
87 types of violations for which a citation may be issued and the amount  
88 of any fine to be imposed thereby and shall specify the time period for  
89 uncontested payment of fines for any alleged violation under any such  
90 regulation. No fine imposed under the authority of this section may  
91 exceed [one] two hundred fifty dollars for each day a violation  
92 continues. Any fine shall be payable to the treasurer of the  
93 municipality.

94 (b) The hearing procedure for any citation issued pursuant to this  
95 section shall be in accordance with section 7-152c except that no zoning  
96 enforcement officer, building inspector or employee of the municipal  
97 body exercising zoning authority may be appointed to be a hearing  
98 officer.

99 (c) Any zoning enforcement officer who issues a citation pursuant to  
100 an ordinance adopted under this section shall be liable for treble  
101 damages in any civil action if the court finds that such citation was  
102 issued frivolously or without probable cause.

103 (d) Any fine imposed by a municipality, pursuant to the provisions  
104 of subsection (a) of this section, and remaining unpaid for a period of  
105 sixty days after its due date shall constitute a lien upon the real estate  
106 against which the fine was imposed from the date of such fine,  
107 provided a notice of violation is recorded in the land records and  
108 indexed in the name of the property owner no later than thirty days  
109 after the fine was imposed. Each such lien may be continued, recorded  
110 and released in the manner provided by the general statutes for  
111 continuing, recording and releasing property tax liens. Each such lien  
112 shall be effective from the time of the recording of the lien on the land  
113 records, and shall take precedence over all other liens and  
114 encumbrances, except taxes, and may be enforced in the same manner

115 as property tax liens. Each title insurance company issuing a policy for  
116 property in this state shall exclude coverage for loss or damage  
117 because of a valid existing lien or a future unrecorded lien imposed  
118 under this subsection.

119 (e) Any municipality imposing a fine under subsection (a) of this  
120 section shall maintain a current record of all properties subject to  
121 unpaid fines under said subsection (a) in the office of the municipal  
122 clerk. Such record shall be available for immediate review by the  
123 general public.

124 Sec. 3. Section 47a-53 of the general statutes is repealed and the  
125 following is substituted in lieu thereof (*Effective October 1, 2005*):

126 (a) Whenever any tenement, lodging or boarding house or any  
127 building, structure, excavation, business pursuit, matter or thing in or  
128 about such house or the lot on which it is situated, or the plumbing,  
129 sewerage, drainage, lighting, paint or ventilation of such house, is, in  
130 the opinion of the board of health or other enforcing agency, in a  
131 condition which is or in its effect is dangerous or detrimental to life or  
132 health, or whenever any tenement, lodging or boarding house in the  
133 opinion of the board or enforcing agency, is in violation of the  
134 provisions of section 19a-109, the board or other enforcing agency may  
135 declare that the same, to the extent specified by the board or other  
136 enforcing agency, is a public nuisance. The board or enforcing agency  
137 may order such public nuisance to be removed, abated, suspended,  
138 altered or otherwise remedied, improved or purified. The board of  
139 health or other enforcing agency may also order or cause any tenement  
140 house or part thereof, or any excavation, building, structure, sewer,  
141 plumbing pipe, paint, passage, premises, ground, matter or thing in or  
142 about a tenement, lodging or boarding house or the lot on which such  
143 house is situated, to be purified, cleansed, disinfected, removed,  
144 altered, repaired or improved.

145 (b) If any order of the board of health or other enforcing agency is  
146 not complied with, or not so far complied with as the board or other

147 enforcing agency regards as reasonable, [within] not later than five  
148 days after the service thereof, or within such shorter time as the board  
149 or other enforcing agency designates, such order may be executed by  
150 the board or other enforcing agency, through its officers, agents,  
151 employees or contractors. The expense of executing such order,  
152 including an amount not to exceed five per cent of the expense thereof  
153 as a service charge and ten per cent of the expense thereof as a penalty  
154 shall be collected from the owner by an action in the name of the city,  
155 borough or town.

156 (c) Any fine imposed by an enforcing agency, pursuant to the  
157 provisions of subsection (a) of this section, and remaining unpaid for a  
158 period of sixty days after its due date shall constitute a lien upon the  
159 real estate against which the fine was imposed from the date of such  
160 fine, provided a notice of violation is recorded in the land records and  
161 indexed in the name of the property owner no later than thirty days  
162 after the fine was imposed. Each such lien may be continued, recorded  
163 and released in the manner provided by the general statutes for  
164 continuing, recording and releasing property tax liens. Each such lien  
165 shall be effective from the time of the recording of the lien on the land  
166 records, and shall take precedence over all other liens and  
167 encumbrances, except taxes, and may be enforced in the same manner  
168 as property tax liens. Each title insurance company issuing a policy for  
169 property in this state shall exclude coverage for loss or damage  
170 because of a valid existing lien or a future unrecorded lien imposed  
171 under this subsection.

172 (d) Any enforcing agency imposing a fine under subsection (a) of  
173 this section shall maintain a current record of all properties subject to  
174 unpaid fines under said subsection (a) in the office of the municipal  
175 clerk. Such record shall be available for immediate review by the  
176 general public.

177 Sec. 4. Section 47a-58 of the general statutes is repealed and the  
178 following is substituted in lieu thereof (*Effective October 1, 2005*):

179 (a) Any enforcing agency may issue a notice of violation to any  
180 person who violates any provision of this chapter or a provision of a  
181 local housing code. Such notice shall specify each violation and specify  
182 the last day by which such violation shall be corrected. The date  
183 specified shall not be less than three weeks from the date of mailing of  
184 such notice, provided that in the case of a condition, which in the  
185 judgment of the enforcing agency is or in its effect is dangerous or  
186 detrimental to life or health, the date specified shall not be more than  
187 five days from the date of mailing of such notice. The enforcing agency  
188 may postpone the last day by which a violation shall be corrected upon  
189 a showing by the owner or other responsible person that he has begun  
190 to correct the violation but that full correction of the violation cannot  
191 be completed within the time provided because of technical  
192 difficulties, inability to obtain necessary materials or labor or inability  
193 to gain access to the dwelling unit wherein the violation exists.

194 (b) When the owner or other responsible person has corrected such  
195 violation, he shall promptly, but not later than two weeks after such  
196 correction, report to the enforcing agency in writing, indicating the  
197 date when each violation was corrected. It shall be presumed that the  
198 violation was corrected on the date so indicated, unless a subsequent  
199 inspection by the enforcing agency again reveals the existence of the  
200 condition giving rise to the earlier notice of violation.

201 (c) Any person who fails to correct any violation prior to the date set  
202 forth in the notice of violation shall be subject to a cumulative civil  
203 penalty of five dollars per day for each violation from the date set for  
204 correction in the notice of violation to the date such violation is  
205 corrected, except that in any case the penalty shall not exceed [five]  
206 one hundred dollars per day nor shall the total penalty exceed seventy-  
207 five hundred dollars. The penalty may be collected by the enforcing  
208 agency by action against the owner or other responsible person or by  
209 an action against the real property. An action against the owner may  
210 be joined with an action against the real property.

211 (d) In addition to the penalties specified in this section the enforcing

212 agency may enforce the provisions of this chapter or a local housing  
213 code by injunctive relief pursuant to chapter 916.

214 (e) Any unpaid penalty imposed by an enforcing agency, pursuant  
215 to the provisions of subsection (a) of this section, and remaining  
216 unpaid for a period of sixty days after its due date shall constitute a  
217 lien upon the real estate against which the fine was imposed from the  
218 date of such fine, provided a notice of violation is recorded in the land  
219 records and indexed in the name of the property owner no later than  
220 thirty days after the fine was imposed. Each such lien may be  
221 continued, recorded and released in the manner provided by the  
222 general statutes for continuing, recording and releasing property tax  
223 liens. Each such lien shall be effective from the time of the recording of  
224 the lien on the land records, and shall take precedence over all other  
225 liens and encumbrances, except taxes, and may be enforced in the  
226 same manner as property tax liens. Each title insurance company  
227 issuing a policy for property in this state shall exclude coverage for  
228 loss or damage because of a valid existing lien or a future unrecorded  
229 lien imposed under this subsection.

230 (f) Any enforcing agency imposing a penalty under subsection (a) of  
231 this section shall maintain a current record of all properties subject to  
232 unpaid fines under said subsection (a) in the office of the municipal  
233 clerk. Such record shall be available for immediate review by the  
234 general public.

235 Sec. 5. Subdivision (10) of subsection (c) of section 7-148 of the  
236 general statutes is repealed and the following is substituted in lieu  
237 thereof (*Effective October 1, 2005*):

238 (10) (A) Make all lawful regulations and ordinances in furtherance  
239 of any general powers as enumerated in this section, and prescribe  
240 penalties for the violation of the same not to exceed [one hundred] two  
241 hundred fifty dollars, unless otherwise specifically provided by the  
242 general statutes. Such regulations and ordinances may be enforced by  
243 citations issued by designated municipal officers or employees,



244 provided the regulations and ordinances have been designated  
245 specifically by the municipality for enforcement by citation in the same  
246 manner in which they were adopted and the designated municipal  
247 officers or employees issue a written warning providing notice of the  
248 specific violation before issuing the citation;

249 (B) Adopt a code of ethical conduct;

250 (C) Establish and maintain free legal aid bureaus;

251 (D) Perform data processing and related administrative computer  
252 services for a fee for another municipality;

253 (E) Adopt the model ordinance concerning a municipal freedom of  
254 information advisory board created under subsection (f) of section 1-  
255 205 and establish a municipal freedom of information advisory board  
256 as provided by said ordinance and said section.

257 Sec. 6. Subsection (b) of section 51-164n of the general statutes is  
258 repealed and the following is substituted in lieu thereof (*Effective*  
259 *October 1, 2005*):

260 (b) Notwithstanding any provision of the general statutes, any  
261 person who is alleged to have committed (1) a violation under the  
262 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-  
263 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-  
264 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292, or 12-326g,  
265 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section  
266 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-  
267 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-  
268 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-  
269 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or  
270 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,  
271 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)  
272 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,  
273 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b  
274 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-

275 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,  
276 14-153 or 14-163b, a first violation as specified in subsection (f) of  
277 section 14-164i, section 14-219 as specified in subsection (e) of said  
278 section, section 14-240, 14-249 or 14-250, subsection (a), (b) or (c) of  
279 section 14-261a, section 14-262, 14-264, 14-267a, 14-269, 14-270, 14-275a,  
280 14-278 or 14-279, subsection (e) of section 14-283, section 14-291, 14-  
281 293b, 14-319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a,  
282 subdivision (1), (2) or (3) of section 14-386a, section 15-33, subsection  
283 (a) of section 15-115, section 16-256, 16-256e, 16a-15 or 16a-22,  
284 subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145, 17a-149,  
285 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-137 or 17b-734,  
286 subsection (b) of section 17b-736, section 19a-30, 19a-33, 19a-39 or 19a-  
287 87, subsection (b) of section 19a-87a, section 19a-91, 19a-105, 19a-107,  
288 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-297, 19a-301,  
289 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-425, 19a-502,  
290 20-7a, 20-14, 20-158, 20-231, 20-257, 20-265 or 20-324e, subsection (a) of  
291 section 20-341, section 20-341l, 20-597, 20-608, 20-610, 21-30, 21-38, 21-  
292 39, 21-43, 21-47, 21-48, 21-63, 21-76a, 21a-21, 21a-25, 21a-26 or 21a-30,  
293 subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63 or 21a-  
294 77, subsection (b) of section 21a-79, section 21a-85, 21a-154, 21a-159,  
295 21a-201, 21a-211, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36,  
296 22-37, 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54,  
297 22-61, 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-  
298 318a, 22-320h, 22-324a, 22-326 or 22-342, subsection (b) or (e) of section  
299 22-344, section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or  
300 22a-246, subsection (a) of section 22a-250, subsection (e) of section 22a-  
301 256h, subsection (a) of section 22a-381d, section 22a-449, 22a-461, 23-37,  
302 23-38, 23-46 or 23-61b, subsection (a) or (b) of section 23-65, section 25-  
303 37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-49, 26-54, 26-59, 26-61,  
304 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128, 26-131, 26-132, 26-138,  
305 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230, 26-294, 28-13, 29-6a, 29-  
306 109, 29-161y, 29-161z, 29-198, 29-210, 29-243, 29-277, 29-316, 29-318, 29-  
307 341, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15,  
308 31-16, 31-18, 31-23, 31-24, 31-25, 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40,  
309 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a)

310 or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b  
311 or 31-134, subsection (i) of section 31-273, section 31-288, 36a-787, 42-  
312 230, 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-  
313 54, section 46a-59, 46b-22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16 or  
314 53-133, subsection (a) or (b) of section 53-211, or section 53-212a, 53-  
315 249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323,  
316 53-331, 53-344 or 53-450, or (2) a violation under the provisions of  
317 chapter 268, or (3) a violation of any regulation adopted in accordance  
318 with the provisions of section 12-484, 12-487 or 13b-410, or (4) a  
319 violation of any ordinance, regulation or bylaw of any town, city or  
320 borough, except violations of building codes and the health code, for  
321 which the penalty exceeds ninety dollars but does not exceed two  
322 hundred fifty dollars, unless such town, city or borough has  
323 established a payment and hearing procedure for such violation  
324 pursuant to section 7-152c, shall follow the procedures set forth in this  
325 section.

326 Sec. 7. Section 51-164p of the general statutes is repealed and the  
327 following is substituted in lieu thereof (*Effective October 1, 2005*):

328 (a) Notwithstanding any provision of any special act, local law or  
329 the general statutes to the contrary, any violation of any ordinance,  
330 regulation or bylaw of any town, city or borough, except violations of  
331 building codes and the health code, for which the penalty does not  
332 exceed ninety dollars shall be an infraction as provided for in sections  
333 51-164m and 51-164n, as amended by this act.

334 (b) Notwithstanding any provision of any special act, local law or  
335 the general statutes, any violation of any ordinance, regulation or  
336 bylaw of any town, city or borough, except violations of building codes  
337 and the health code, for which the penalty exceeds ninety dollars but  
338 does not exceed two hundred fifty dollars shall be a violation as  
339 provided for in sections 51-164m and 51-164n, as amended by this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	8-12
Sec. 2	<i>October 1, 2005</i>	8-12a
Sec. 3	<i>October 1, 2005</i>	47a-53
Sec. 4	<i>October 1, 2005</i>	47a-58
Sec. 5	<i>October 1, 2005</i>	7-148(c)(10)
Sec. 6	<i>October 1, 2005</i>	51-164n(b)
Sec. 7	<i>October 1, 2005</i>	51-164p